



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 175753

PRELIMINARY RECITALS

Pursuant to a petition filed on July 22, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services regarding FoodShare benefits (FS), a hearing was held on September 14, 2016, by telephone. A hearing originally scheduled for August, 2016, was rescheduled at petitioner's request.

The issue for determination is whether the respondent correctly determined petitioner's FS allotment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Olivia Cherry
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:
Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. Petitioner is an ongoing FS recipient; he is an FS household of one. In August of 2016, the respondent budgeted unearned income of \$838.00 and earned income of \$927.19 for petitioner.
3. At all times relevant to this matter, the petitioner's monthly rent was \$130.00 and he was responsible for his utilities.
4. Petitioner's FS allotment is \$16.00 monthly.
5. On July 22, 2016, the petitioner filed a request for fair hearing with the Division of Hearings and Appeals.
6. The petitioner is eligible for \$16.00 in monthly FS benefits.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

The petitioner's budget was calculated as follows:

Unearned Income:	\$ 838.00
Earned Income:	\$ 927.19
Earned Income ded.:	(\$ 185.43)
Standard Deduction	<u>(\$ 155.00)</u>
Adjusted income:	\$ 1,424.76
Shelter deduction:	(\$ 0.00) ¹
Net Adjusted income:	\$ 1,424.76

The FS allotment is determined by multiplying the Net Adjusted income by 30%, and then subtracting that from the maximum FS allotment of \$194.00:

Maximum FS allotment:	\$194.00
30% Net Adjusted income:	<u>(\$427.50)</u>
Categorical FS Allotment:	\$16.00

*categorically eligible individuals are entitled to the minimum FS allotment, \$16.00.

I have reviewed the respondent's calculations, and have found no error.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's FS benefits in the amount of \$16.00.

¹ Rent of \$130.00 plus a maximum utility standard deduction of \$458.00 equals \$588.00 in rent/utility cost. 50% of the petitioner's adjusted income, \$712.36, is subtracted from the rent/utility cost to calculate the deduction; since 50% of the petitioner's adjusted income exceeds the rent/utility cost, there is no shelter deduction.

THEREFORE, it is

ORDERED

That this petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 17th day of October, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 17, 2016.

Brown County Human Services
Division of Health Care Access and Accountability